



HAWAII DISABILITY RIGHTS CENTER

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August 1, 2019

Office for Civil Rights
United States Department of Education
Seattle Office
US Department of Education
915 Second Avenue Room 3310
Seattle WA 98174

Re: Hawaii Schools' Suspension of Students with Disabilities is a Violation of Civil Rights

To the Office for Civil Rights:

Hawaii Disability Rights Center files this complaint against the Hawaii Department of Education (HIDOE). HIDOE operates public schools throughout the Hawaiian Islands. HIDOE reports that 17,591 students were identified as students with disabilities in the 2018-2019 school year. This complaint is filed on their behalf.

The Center is authorized by Congress to make this complaint because it is the authorized Protection and Advocacy Agency in Hawaii. Its duty is to advocate for the protection of persons with disabilities and protection of their human, civil and legal rights and protection from discrimination. One of those rights is the right to a Free, Appropriate Public Education under the Individuals with Disabilities Education Act (IDEA), administered by the Office of Special Education and Rehabilitative Services (OSERS).

Your office has the jurisdiction to investigate this complaint because HIDOE receives funds from the United States Department of Education, and the Office for Civil Rights enforces Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990.

The Civil Rights Data Collection shows that during the 2015-2016 school year (the most recent year available) Hawaii's public schools suspended students with disabilities for more days than any other state. Each hundred students with disabilities on the mainland were suspended for an average of 44 days that school year; for Hawaii they were suspended for 95 days. No other state suspended students with disabilities for as many days as Hawaii did in the 2015-2016 school year. Our Center has not located any information showing the total days students with disabilities lost due to suspensions in the three school years since the Civil Rights Data Collection. However, HIDOE has published data showing that during the 2017-2018 school year it suspended students with disabilities three times as often as students without disabilities.



HAWAII'S PROTECTION AND ADVOCACY SYSTEM FOR PEOPLE WITH DISABILITIES
HAWAII'S CLIENT ASSISTANCE PROGRAM



The huge number of school days Hawaii's students with disabilities lost to suspension has been well-publicized. It was reported in a front page article in Hawaii's largest newspaper and in Hawaii's leading online paper. The high rate of suspensions was publicized in the annual report of the advisory council that reports to HIDOE about the education of students with disabilities (Special Education Advisory Council, Annual Report for SY 2018-2019).

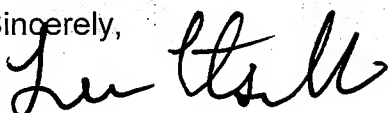
HIDOE should know of the disproportionate rates and days of suspension suffered by students with disabilities. However, it has not made public any new programs, policies or studies to address the issue. The issue has seemingly been completely ignored by HIDOE; it is not addressed on its website or in its strategic planning process for 2020-30. We have attempted to contact HIDOE to try to determine if it has any plans to address the issue. We have received no meaningful response.

Moreover, we believe that the days lost to suspension, and numbers of suspensions, are even higher than officially recorded. That is because we regularly hear of parents and caretakers being asked to pick children up for the day due to behavior concerns. The caretakers are not told that the child is being suspended for that day, and we believe that the schools are not recording these as suspensions. These "ad hoc" suspensions are in violation of IDEA and Section 504.

HIDOE's high suspension rate, along with its extraordinary high number of lost school days, is a failure of its mandate to provide for the education of students with disabilities. It suggests students with disabilities are not receiving the education they are entitled to, and are treated differently than similarly situated students without disabilities. This is leading to the unwarranted exclusion of students with disabilities from educational programs and services.

The Hawaii Disability Rights Center asks that you investigate this complaint because the systemic suspension of children with disabilities is a civil rights violation.

Sincerely,



Louis Erteschik
Executive Director

Cc: David Ige, Governor, State of Hawaii
Michelle N. Kidani, Chair, Senate Committee on Education
Justin H. Woodson, Chair, House Committee on Lower & Higher Education
Christina Kishimoto, Superintendent of the State of Hawaii, Dept. of Education
Catherine Payne, Chairperson, State of Hawaii, Board of Education
Martha M. Guinan, Chair, Special Education Advisory Council

Enclosure: Star Advertiser Article: Class Days Denied (6/14/19); Civil Beat Article: ACLU says Hawaii Schools Are Suspending Too Many Students (6/14/19); Special Education Advisory Council Annual Report for SY 2018-2019; 11 Million Days Lost: Race, Discipline, and Safety at U.S. Public Schools, Part 1 (by Daniel J. Losen and Amir Whitaker)



CLASS DAYS DENIED

Hawaii suspends students twice as long as the U.S. average with Hawaiian, Pacific Islander and those with disabilities hit hardest, the ACLU says

By Susan Essoyan
sessoyan@staradvertiser.com

Students in Hawaii miss nearly twice as many school days due to suspensions as their peers nationally, and children with disabilities, Native Hawaiians and Pacific Islanders are hardest-hit, according to an American Civil Liberties Union analysis of federal data.

The percentage of public school students suspended is well below the national norm — 3.5% here versus 5.3% nationwide — the 2017 Digest of

Education Statistics shows. But students in the islands are put out of school for much longer periods.

Overall, the statewide average was 41 suspended days total per 100 students in an academic year, compared with the national average of 23. And the amount of time on suspension varies dramatically among student groups and schools in Hawaii.

Locally, students with disabilities lost 95 days total per 100 students, while the figure for

Please see SCHOOL, A16

ON SUSPENSION

Hawaii suspends a lower percentage of its public school students than the national norm, but students are put out of school for much longer.

Suspension rate

Percentage of students suspended in an academic year:

HAWAII
3.5%

Source: 2017 Digest of Education Statistics, National Center for Education Statistics

STAR-ADVERTISER



JAMM AQUINO / JAQUINO@STARADVERTISER.COM

Amir Whitaker, left, civil rights attorney for the ACLU of Southern California; Darcia Forester, deputy public defender with the state Public Defenders Office; and Heidi Armstrong, assistant superintendent of the Office of Student Support Services at the DOE, spoke June 6 during a ACLU of Hawaii panel as Rae Shih moderated. They discussed the current landscape of the state's public schools.

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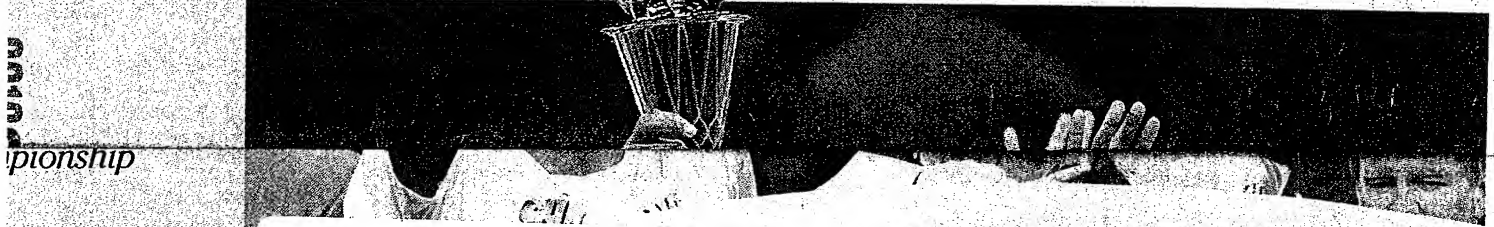
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CLASS DAYS DENIED

Hawaii suspends students twice as long as the U.S. average with Hawaiian, Pacific Islander and those with disabilities hit hardest, the ACLU says

By Susan Essoyan
sessoyan@staradvertiser.com

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Locally, students with disabilities lost 95 days total per 100 students, while the figure for

Please see **SCHOOL**, A16

SCHOOL

Continued from A1

Native Hawaiians and Pacific Islanders was 75; black students, 34; white students, 28; and Asian students, 24.

"In Hawaii, kids are suspended way longer than almost every other jurisdiction," said Rae Shih, legal fellow at the ACLU of Hawaii. "It's highly punitive compared to other jurisdictions."

"And when there's racial disparity, we are just putting certain kids out for very long periods of time, and I think that in and of itself is alarming," she said.

The figures are in a 2018 report, "11 Million Days Lost: Race, Discipline and Safety at U.S. Public Schools," from the Civil Rights Project at the University of California, Los Angeles, and the ACLU of Southern California. It is based on the most recent figures in the U.S. Department of Education's Civil Rights Data Collection, which are from the 2015-16 academic year.

Public schools in Hawaii may suspend students for up to 92 days for a wide range of offenses, from fighting to vaping, and principals have discretion in setting the punishment.

Heidi Armstrong, assistant superintendent for student support, stressed that students receive educational services even when sent off campus.

"When a student is suspended for 10 or more days, they have to receive schooling," she said. "We don't want any students out for 92 days, but sometimes there are things that need to happen such as drug treatment prior to their return to school."

Speaking at a June 6 forum hosted by the ACLU of Hawaii, she acknowledged and lamented disparities in suspension rates among different groups.

"A high number of our special-needs students do receive suspension, and that is something we are working on addressing and getting to the root cause," she said. "We don't want to see that. We also don't want to see the number of Pacific Islander and Hawaiian students being higher."

At the forum, the ACLU unveiled its new online "dashboard," which spotlights Hawaii public schools with the highest rates of suspensions and arrests and has a data visualization map.

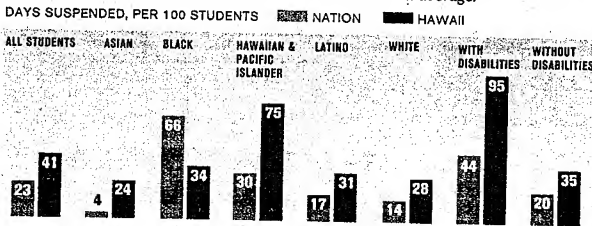
"These are the islands of Hawaii, and the red rings represent the suspension rate for schools where students lose twice the national average days due to suspension," said Amir Whitaker, staff attorney with the ACLU of Southern California.

"You see a lot of hot spots," he said. "Those are not volcanoes erupting. They are children being deprived of their educational opportunities."

Highlands Intermediate School in Pearl City had the most instructional days lost due to suspension, followed by Nanakuli High &

SUSPENSION DAYS

This graph shows the total number of days out of school due to suspension, per 100 students, per academic year. Hawaii is at twice the national average.



Sources: "11 Million Days Lost: Race, Discipline and Safety at U.S. Public Schools," by UCLA's Civil Rights Project and the American Civil Liberties Union of Southern California, using data from the U.S. Department of Education Civil Rights Data Collection, 2015-16 academic year

SUSPENSION DAYS IN AN ACADEMIC YEAR

Statewide average: 41 days total per 100 students

Top 10 schools for suspension

SCHOOL NAME	TOTAL SUSPENSION DAYS PER 100 STUDENTS
Highlands Intermediate	352
Nanakuli High & Intermediate	309
Waianae Intermediate	301
Waianae High School	275
Kaiser High	194
Waipahu Intermediate	190
Pahoa High & Intermediate	184
Kailua High	179
Kapaa Middle	178
Molokai High	154

CAMPUS ARRESTS IN AN ACADEMIC YEAR

Statewide average: 0.37 arrests per 100 students

Top 10 schools for arrests

SCHOOL NAME	ARRESTS PER 100 STUDENTS
Pahoa High & Intermediate School	4.1
Molokai High School	3.8
Hawaii School for the Deaf and the Blind	3.6
Waimea High School	3.6
Waimea Canyon Middle	3.5
Kauai High	3.3
Kapaa High	3.2
Kohala High	3.1
Waimea Middle Charter School	3.0
Waianae Intermediate	2.6

Source: ACLU of Hawaii and ACLU of Southern California dashboard, online at www.tinyurl.com/ACLUHItool. Based on U.S. Department of Education Civil Rights Data Collection, 2015-16 academic year.



When a student is suspended for 10 or more days, they have to receive schooling. We don't want any students out for 92 days, but sometimes there are things that need to happen such as drug treatment prior to their return to school."

Heidi Armstrong
Assistant superintendent, the Office of Student Support Services at the DOE

Intermediate and Waianae Intermediate.

Principal Amy Martinson of Highlands Intermediate said Thursday that during the 2015-16 school year, when the data was gathered, suspension days spiked because administrators busted a group of students selling marijuana on campus.

"That year was a really crazy anomaly," she said. "It wasn't very many students, but they were long suspensions ... anywhere from 45 to 92 days," she said. "I took into consideration the sever-

ity of the offense. ... I have an obligation to the rest of my student population because the parents want a safe environment, drug-free."

"Our (suspension) average is very, very low because we have support programs in school," she said. "They can go to a behavior modification program instead of being suspended, where students are tutored all day long by regular teachers."

Statewide the two most common offenses leading to suspension are drug violations and harassment, according to Mel Decasa, federal compliance lead for the Department of Education's Data Governance section.

He questioned the methodology of the dashboard, specifically the "days per 100 students," which masks whether a student is suspended for a day or a semester.

"In my personal opinion, if we're looking at missed days, I'd look at students by categories, how many have missed under 10 days, how many have missed 11 to 30 days," Decasa said. "That would be more meaningful."

The ACLU says suspension makes students more likely to drop out and can feed a school-to-prison pipeline. It advocates policy changes, such as limiting the number of days a student can be suspended to five and "ending school arrests that criminalize youth for

common adolescent behaviors."

"A lot of jurisdictions have eliminated out-of-school suspensions or capped them at 10 days," Shih said.

Because Hawaii's discipline code doesn't specify what sanction goes with what violation, suspensions vary widely from principal to principal, Shih said. Students can be suspended for "reasonably appearing to be under the influence of a drug — and that includes tobacco or vaping on campus," she said.

The ACLU dashboard also highlights schools with high arrest rates on campus, according to information retrieved from the Civil Rights Data Collection.

Eight of the top 10 schools were on neighbor islands. The top three were Pahoa High & Intermediate School, Molokai High School and Hawaii School for the Deaf and the Blind. At Pahoa, 4.1 students were arrested out of every 100 students, the dashboard showed. Statewide the figure was less than 0.5%, or 0.37 arrests per 100 students.

National data on school arrests is spotty, with several large school districts in 21 states failing to report any arrests to the Civil Rights Office, including New York City and the Los Angeles Unified School District, according to ACLU research.

In Hawaii, Martinson said police officers, not principals, determine whether to charge a student with a crime.

"For possession of any kind of illegal drugs, we have to call the police because they have to come by and pick up the drugs," she said. "The decision (about arrests) is entirely up to the Police Department."

No matter who makes the decision, Darcia Forester, deputy public defender for the state and Family Court supervisor, said the decision to arrest a student has lasting consequences.

"If you are a juvenile and you are being arrested in school, you are handcuffed, there is a blue-and-white that is ready to receive you and you are taken to a police station," she said. "Your parent is not in that car."

"It doesn't matter how nice or kind the officer may be," Forester said. "The trauma of being handcuffed and taken to a police station like a criminal has long-standing impacts, especially if it's a minor offense or if you're not guilty."

To see the online dashboard, go to tinyurl.com/ACLUHItool.

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Education

ACLU Says Hawaii Schools Are Suspending Too Many Students

Not only is there a racial disparity in suspensions, but the days lost to that punishment in the islands far exceed the national average, according to a new analysis.

 17

By Suevon Lee    / June 14, 2019

 Reading time: 4 minutes.

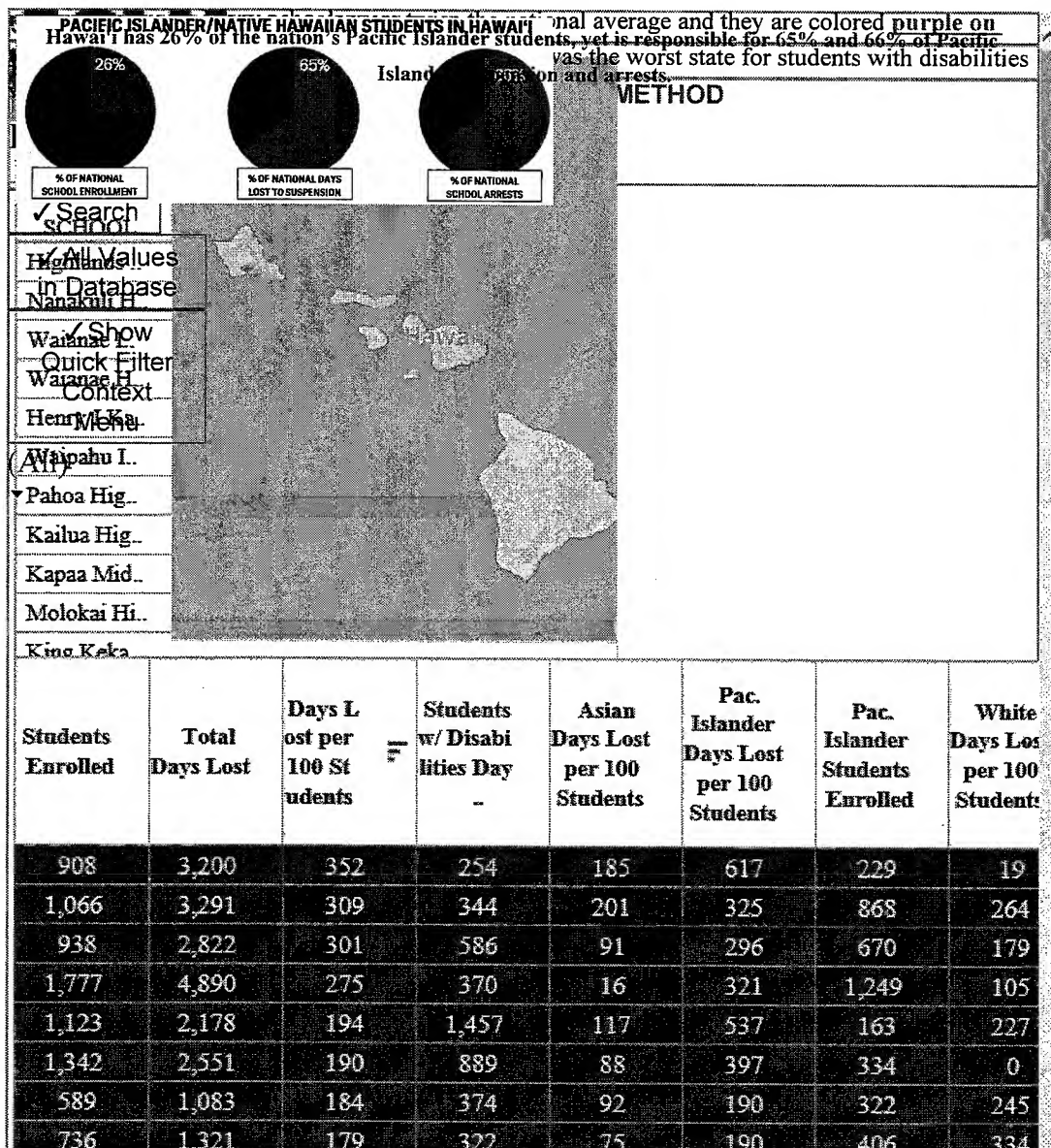


Last year's release of federal school discipline data for the 2015-16 school year showed a big racial disparity among school suspensions in Hawaii, one that disproportionately affects Native Hawaiians and Pacific Islanders.

But it is the sheer number of instructional days missed in Hawaii as the result of school suspensions and arrests that is drawing the attention of a national civil liberties group in the wake of the federal data.

“We always see Hawaii as this outlier, as far as the frequency of suspensions, the punitive amount of suspensions, but also when it comes to Pacific Islander and Native Hawaiian students — the state has arrest rates that are multiple times the national average,” said Amir Whitaker, a policy attorney with the ACLU Southern California chapter.

In town last week to participate in a panel organized by ACLU Hawaii, Whitaker introduced a new tool he’s created to search school by school in Hawaii to see how many total days students have missed and which student groups are most impacted:



The interactive tool uses data from the U.S. Department of Education's Civil Rights Data Collection, a biennial survey of public schools required by the Office for Civil Rights.

For the 2015-16 school year, the most recent school year in the survey, the federal government included for the first time the category of number of school days missed due to suspensions.

According to Whitaker's analysis, that number in Hawaii far outpaces the national average. Around the country, there were 23 days lost to suspension per 100 students, but in Hawaii, there were 41 days per 100 students.

And Native Hawaiian and Pacific Islander students in Hawaii lost 75 days of instruction per 100 students, according to his analysis.

Furthermore, he found that students in Hawaii are arrested at a rate three times the national average while arrests for students with disabilities tops the nation.

Hawaii's public school population in 2015-16 was about 182,000. Native Hawaiian and Pacific Islander students comprised one-third of the student body, but accounted for 48% of suspensions, 68% of

expulsions and 48% of school-based referrals to law enforcement, according to federal data.

Unlike many other states, Hawaii does not limit the number of school days a student can be suspended.

Under Chapter 19, Hawaii's school discipline code, a student can be suspended for up to 92 days for serious offenses, including possession of a dangerous weapon or possession or use of an illicit drug or intoxicating substance while at school or a DOE-sponsored event.

Suevon Lee/Civil Beat

Assistant Superintendent Heidi Armstrong, third from left, at a public hearing last year to discuss revisions to Chapter 19, the student discipline code.

“School principals approve suspensions of 1 to 10 school days; suspensions exceeding 10 days are approved by the complex area superintendent and may be appealed,” wrote Heidi Armstrong, the assistant superintendent for Office of Student Support Services, in an email to Civil Beat.

She added that school administrators consider five factors when deciding disciplinary action: the nature of the offense, offender’s intention, impact of the offense, offender’s age and whether the student was a repeat offender.

“Although a student may miss a physical day of school, they are guaranteed alternate educational activities and other appropriate assistance, which may be outside the traditional school environment, at another time of day, or at another location,” she said.

Armstrong sat on the the ACLU Hawaii “School to Prison Pipeline” panel last week. Several audience members said they were dissatisfied with the extent of information provided by the DOE regarding the racial disparity in suspensions.

“I would hope the DOE would take a lead in being the system that says, ‘We are mirroring what’s happening in larger society and we need to do better than that.’ We need to put funding toward addressing bias and the effects of bias,” said Chris Santomauro, a former DOE special education teacher.

Armstrong, in her email, said the DOE has seen an “overall downward trend” in school suspensions since the 2015-16 school year.

She said the DOE will make that data public in the fall.

The discipline search tool Whitaker created follows two reports from the ACLU's Southern California chapter and the UCLA Civil Rights Project. The first, published in August 2018, is titled "11 Million Days Lost: Race, Discipline, and Safety at U.S. Public Schools." The second of those reports was published in March and is titled, "Cops and No Counselors: How the Lack of Mental Health Staff is Harming Students."

A note to our readers

While asking for your support is something we don't like to do, the simple fact is that our reporters, our journalism, and our impact rely on it. Since lifting our paywall and becoming a nonprofit in mid-2016, our local newsroom has benefitted from a stream of charitable support from people who want our type of journalism to survive. People like you who understand that our work is essential to a better-informed community. If you value the work of our journalists, show us with your tax-deductible support.

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About the Author



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Suevon Lee covers education for Civil Beat. You can reach her at slee@civilbeat.org or follow her on Twitter at [@suevlee](https://twitter.com/suevlee)

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Special Education Advisory Council

ANNUAL REPORT FOR SY 2018-19





Message from the Chair

This year while busy was very rewarding. The year started with sharing and discussion of the Special Education Task Force Report and Recommendations. Members agreed that their annual priorities for the year should be the four main task force recommendations: a shared vision of inclusion, professional development for all stakeholders, funding allocation by student needs, and adequate time allotment for care coordination and preparation. To expand on these topics we formed workgroups to create infographics around Inclusion/Na Hopena A'o, State Systemic Improvement Plan (SSIP), and Disproportionality. Several members from SEAC collaborated with Joanne Cashman on a well-received webinar to other State Advisory Councils on our work with infographics.



Assistant Superintendents and Co-chairs Heidi Armstrong and Amy Kunz invited SEAC to participate on the Special Education Fiscal Allocation Work Group, I was able to attend most meetings and share the concerns of SEAC. The workgroup strived for transparency and shared responsibility. I was pleased that we were able to ensure parents and the community had a voice in the process.

Several members of SEAC also participated in workgroups on the Alternate Assessment, providing greater understanding in the assessment provided to up to 10% of special education students. Our suggestions were welcomed and some of them were incorporated. We are hopeful all this work will lead toward better educational equity for all students with disabilities.

The DOE's office of Monitoring and Compliance had a change in February as we said a sad farewell to Christina Tydeman and welcome to Drew Saranillio as the new liaison to the Superintendent. We are familiar with Drew as he had assisted Dr. Tydeman in the past.

As we do each year we met with legislators and the Board of Education and submitted testimony on bills that addressed our concerns regarding budget and educational issues.

My thanks to all the members of the Special Education Advisory Council for their hard work, and I am humbled that the Council supports me for another year as their chair.

We hope that special education stakeholders find the information in this report of interest and value. SEAC always welcomes your feedback.



Martha M. Guinan

Contact Information for SEAC

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Email: spin@doh.hawaii.gov • Website: <http://www.seac-hawaii.org>

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Purpose

SEAC shall provide policy guidance with respect to special education and related services for children with disabilities in the State. (IDEA, CFR 300.167)

Vision

SEAC believes in optimizing the educational achievement of every child through a strong public education system that is proactive and supportive of students, families and educators. To that end SEAC will use its strength as a broad based constituency group to play an active and influential role in decisions affecting policies, programs and services.

Mission

The mission of SEAC is to guide and assist the Hawaii Department of Education in fulfilling its responsibility to meet the individual needs of children with disabilities.

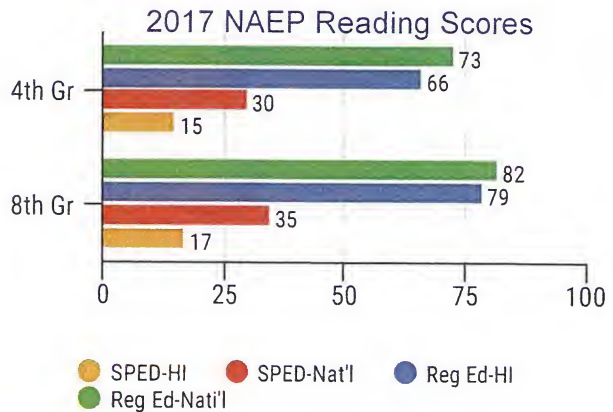
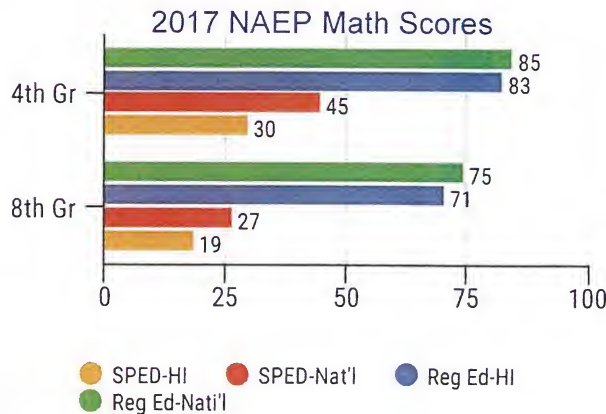




SEAC's Areas of Concern Regarding Special Education Student Characteristics

1

Hawaii SPED students have lower NAEP math and reading scores than the national average, and the gap between Hawaii's SPED and regular ed students is larger than it is nationally.

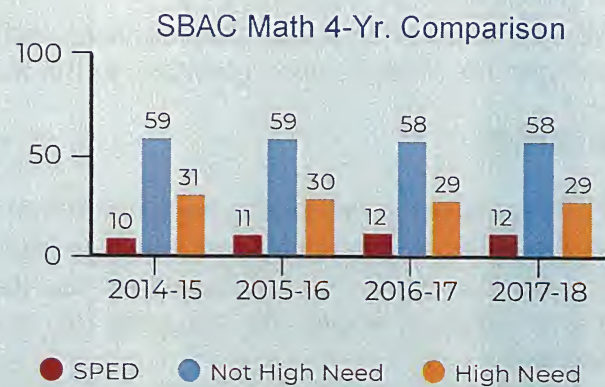
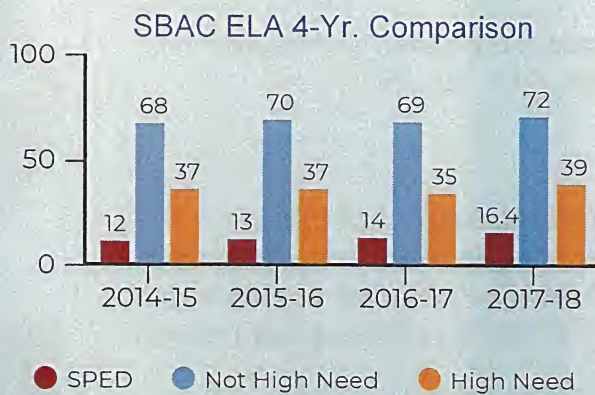


The National Assessment of Educational Performance (NAEP) is the only statewide assessment that is taken in all 50 states, thereby allowing for comparisons of academic achievement. The scores above reflect achievement of "Basic" or above. Hawaii has received a determination of **needs assistance** from the Office of Special Education Programs in large part because of poor academic performance.

Source: NAEP Data Explorer Tool: <https://www.nationsreportcard.gov/ndecore/landing>

2

Students with disabilities are in the lowest performing student subgroup on the Smarter Balance Assessment with little to no improvement over the last four years. The gap with non-high need students is **huge**.



Hawaii still uses a High Needs category made up of a combination of special education, English Learner and economically disadvantaged students to measure Achievement Gap on the Strategic Plan. Special education students are not only 45-50 percentage points below regular students, but they are also underperforming the other subgroups that make up the High Needs category.

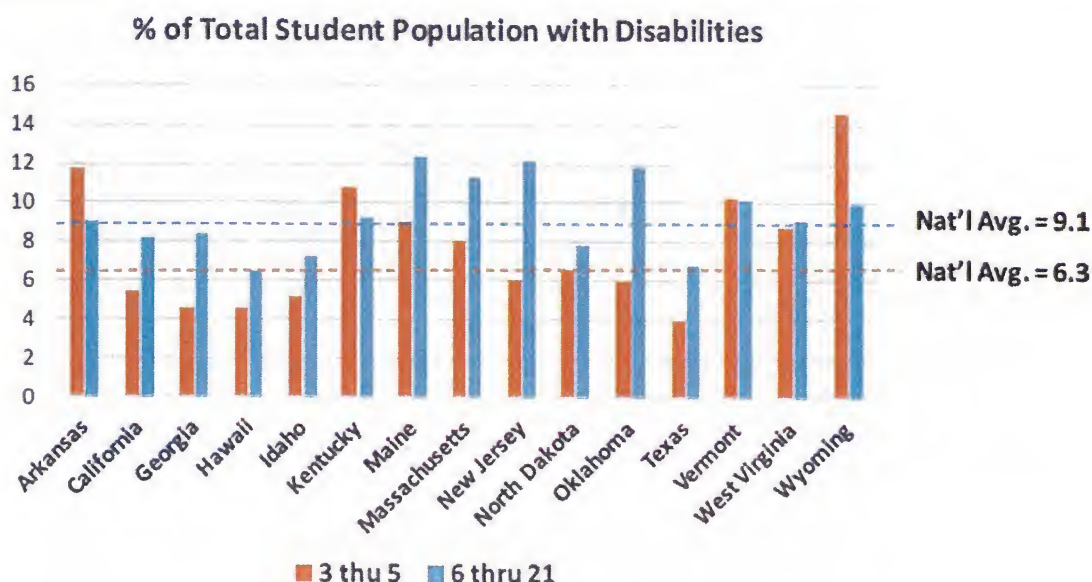
Source: DOE ARCH website 2017-18 Statewide SBAC scores: <https://adc.hidoe.us/#/proficiency> & 9/20/18 BOE General Business Meeting presentation



SEAC's Areas of Concern Regarding Special Education Student Characteristics

3

Hawaii's special education enrollment figures are about 2-3% lower than the national average which may indicate that we are under-identifying students with disabilities.



Source: Section 618 Data Reports: SY 17-18 Child Count

4

24% of Hawaii special education students are chronically absent, compared to 14% of students without disabilities.



students with disabilities



students without disabilities

40% of SPED students in the Waianae-Nanakuli complex missed 15 or more days in SY 17-18. Missing a lot of instructional time negatively impacts student achievement and may affect whether a student drops out of school.

Source: DOE Strategic Plan Dynamic Tool - Absenteeism

5

Only one in three students with disabilities are attending college after graduation--about half the rate of students without disabilities.



students with disabilities



students without disabilities

Students who enroll in post-secondary education have a greater likelihood of employment, higher earnings, and improved health outcomes. Many students with disabilities who attend two or four-year colleges drop out prior to receiving a degree.

Source: SY 17-18 APR Indicator 14 - Post School Outcomes



SEAC's Areas of Concern Regarding Special Education Student Characteristics

6

Hawaii has a higher number of due process hearings than most states while under-utilizing mediation and written complaints.

Over the last 7-8 years, Hawaii has reduced both the number of hearing requests and the number of requests that result in due process hearings. However, less formal dispute resolution options, like mediation, conciliation and IEP facilitation are either under utilized or ineffective. Despite the positive trend of fewer due process hearings, SEAC is concerned that there may be a shortage of plaintiff attorneys to meet the demand for that service.

Comparison of Hawaii to National Data All Complaints (per 10,000 SPED Students)

Dispute Resolution Method	Nat'l Average SY 16-17	Hawaii SY 13-14	Hawaii SY 14-15	Hawaii SY 15-16	Hawaii SY 16-17	Hawaii SY 17-18
Written Complaint Filed	7.8	5.2	6.3	7.3	5.7	3.6
Hearing Request	24.3	41.1	36.7	45.3	44.8	20.7
Hearings Held	1.6*	5.2	7.8	5.7	2.1*	3.2
Mediations Held	9.4	2.6	1.6	0.5	2.1	0.5

Source: Calculated from Section 618 Data Reports: SY 17-18 Dispute Resolution Table 7

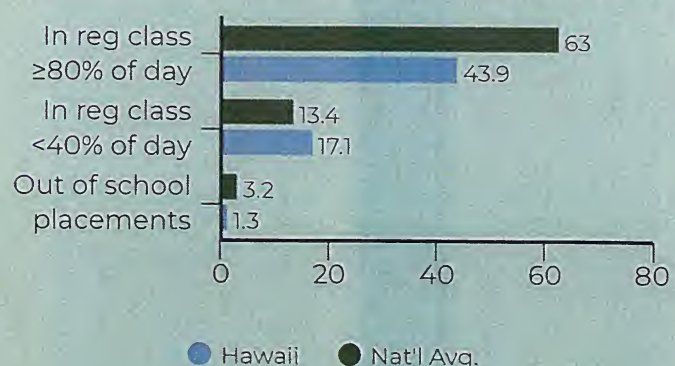
7

The majority of students with disabilities aged 6-22 in Hawaii spend two or more classes outside the regular education classroom. While the number of students who spend 80% or more of their day in the regular education classroom has inched up from 37% in SY 16-17 to 43.9% in SY 18-19, Hawaii still has the lowest rate of inclusion in the nation.

The second category on the chart--inside a regular classroom less than 40% of the day--refers primarily to self-contained classrooms. The goal going forward is for Hawaii's numbers to get **smaller** to get in line with the national average of 13%. On a positive note, Hawaii serves fewer students in separate facilities than the Mainland.

While we did not depict preschool LRE figures, they are also less favorable than national averages in providing access to same age non-disabled peers.

Least Restrictive Environment (LRE) Comparison 6-22 yr. olds - Hawaii vs. National Avg. (by %)



Source: Calculated from Section 618 Data Reports: SY 18-19 Educational Environments



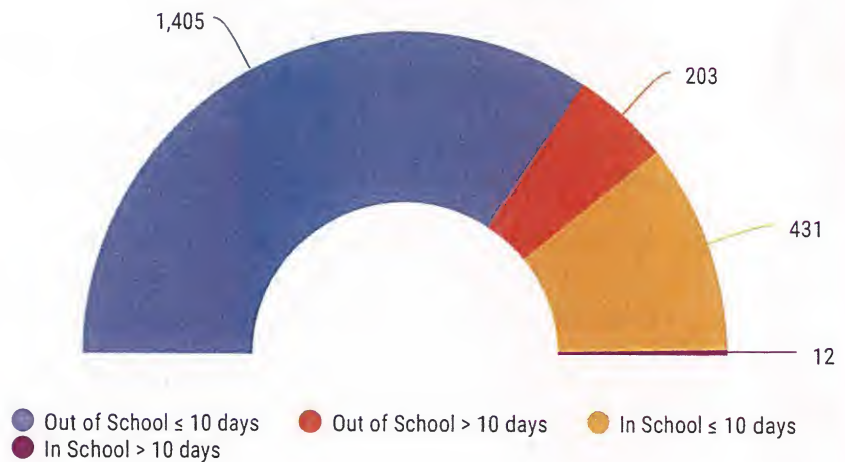
SEAC's Areas of Concern Regarding Special Education Student Characteristics

8

Students with disabilities are suspended at a rate roughly **three** times higher than students without disabilities.

In SY 17-18 there were **2,051** out-of school and in-school suspensions of students with disabilities. That is a rate of 10-11% compared to a rate of 3.5% for the total student population. About three-fourths of the SPED suspensions lasted more than one day, with the majority occurring between 2-10 days. Research has shown that suspensions of any length may result in negative outcomes for students including increased drop out and incarceration rates, and decreased graduation rates and job wages.

SPED Student Suspensions
School Year 2017-18

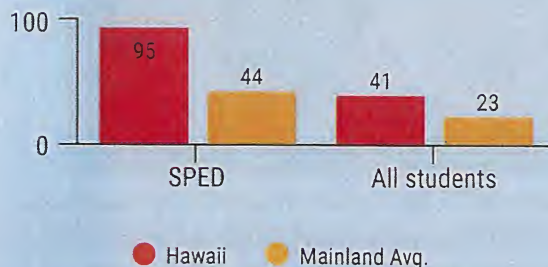


Source: Section 618 Data Reports – SY 17-18 Discipline Table 5

9

The days of lost instruction due to suspension per 100 students is **twice** as great for Hawaii students with disabilities--both compared to all Hawaii students and to a national average for students with disabilities.

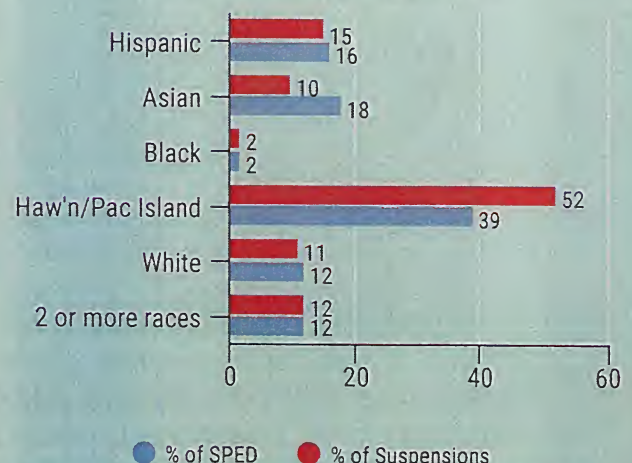
Days of Lost Instruction per
100 students



Source: US DOE Office for Civil Rights Office data for SY 15-16 & "ACLU Says Hawaii Schools Suspending Too Many Students", Civil Beat, 6/14/19.

10

SPED students who are Hawaiian/Pacific Islander are suspended at **higher** rates, and Asian students are suspended at lower rates than would be expected.



Source: Child Count Table 1 & Discipline Table 5 for SY 17-18

Functions of SEAC

1. Advise the Department of Education of unmet needs within the State in the education of children with disabilities. CFR 300.169(a)
2. Comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities. CFR 300.169(b)
3. Advise the Department of Education in developing evaluations and reporting on data to the Secretary of Education, U.S. Department of Education, under Section 618 of the Individuals with Disabilities Education Act. CFR 300.169(c)
4. Advise the Department of Education in developing corrective action plans to address findings identified in federal monitoring reports. CFR 300.169(d)
5. Advise the Department of Education in developing and implementing policies relating to the coordination of services for children with disabilities. CFR 300.169(e)
6. Monitor the implementation of activities and timetable pursuant to consent decrees or court orders regarding the education of children with disabilities. (IDEA 90 regulation maintained by SEAC because of the Felix Consent Decree).
7. Advise on the education of eligible students with disabilities who have been convicted as adults and incarcerated in adult prisons. (IDEA 97 regulation maintained by SEAC with representation by the Department of Public Safety).
8. Review Hawaii special education due process hearing decisions and findings. CFR 300.513(d)1
9. Review and comment with regards to the Department's federal and state budgets for special education.

SEAC Membership



SEAC is made up of a diverse group of individuals with expertise in a variety of areas affecting special education and related issues. Persons with disabilities and parents of children with disabilities comprise a majority of the membership. Members are appointed by the Superintendent and serve without compensation for three-year terms. A roster of SEAC members for School Year 2018-19 can be found on page 14.

Recommendations to the Superintendent

One of SEAC's most important duties is to advise the Superintendent of the Department of Education regarding the unmet needs of students with disabilities and to formulate recommendations to address these needs.



Dr. Christina Kishimoto

APPLIED BEHAVIOR ANALYSIS IN A SCHOOL SETTING

Issue:

During the 2019 legislative session, SEAC, the Department and the University of Hawaii supported legislation that would create an exemption from the law licensing behavior analysts (HRS 465D) for licensed special education teachers and individuals in approved and accredited special education training programs who are working toward licensure as special education teachers and whose scope of practice and training includes behavior analysis. Applied behavior analysis is recognized as within the scope of special education nationally, and has been so for decades.

Unfortunately, this legislation did not pass, and, without this exemption, the UH College of Education's nationally accredited and state approved teacher education program preparing special education teachers to conduct behavioral assessments or to develop and implement interventions based on applied behavioral analysis is jeopardized. If special education teacher candidates do not receive applied behavior analysis training, they will not meet state requirements or be able to answer required questions on the state licensing exam regarding applied behavior analysis. This potential loss of qualified special education teachers will exacerbate the current chronic shortage of trained personnel who have the knowledge and skills to meet the unique needs of students with disabilities.

Recommendation:

Work with SEAC, the UH College of Education and other interested stakeholders to proactively educate key legislators prior to the start of the 2020 Legislature regarding the necessity of creating an additional exemption in HRS 465D for special education teachers who have received the appropriate training to develop and implement behavior plans to address the academic and behavioral needs of their students with IEPs.

CONFLICT RESOLUTION - MEDIATION

Issue:

The Individuals with Disabilities Education Act (IDEA) offers parents a number of options for resolving conflict, including the formal options of mediation, written complaints and due process hearing requests. Mediation offers the most timely results and generally preserves the relationship between school and home. The Center for Appropriate Dispute Resolution in Special Education (CADRE) lists additional benefits of mediation including high rates of compliance with settlements, mutually satisfactory outcomes, a greater degree of control and predictability of outcome, and personal empowerment. In SEAC's review of conflict resolution activity in Hawaii schools for SY 17-18, we learned that only one mediation was held—a rate nearly twenty times less than the national average.





Recommendations to the Superintendent (cont.)

CONFLICT RESOLUTION - MEDIATION (cont.)

Recommendation:

Work with SEAC and other interested stakeholders to launch a public awareness campaign on the benefits of mediation for resolving conflicts between schools and parents whose children are eligible for special education.

DUE PROCESS -- PUBLIC POSTING OF HEARING DECISIONS

Issue:

IDEA requires the Department of Education to make the findings and decisions resulting from special education due process hearings available to the public. This has been traditionally done by posting the redacted hearing decisions on the Department's website. However, the public's ability to find these decisions has grown more difficult in the last several years. A link to hearing decisions by year on the special education main webpage only lists hearings through 2015-16. This link takes the seeker to the Report Finder page where hearing decisions are mixed together with data tables and performance reports with no clear delineation of how many decisions were rendered in a particular year. In searching for more recent hearing decisions, SEAC found several of the decisions mislabeled. By contrast, many states (including Colorado, Nevada and Washington) have easily located and accessible webpages devoted to due process hearing decisions and, in some cases, due process written complaints.

Recommendation:

Offer an easily located and navigated web page providing access to special education due process hearing decisions by school year that is updated regularly.

IDENTIFICATION OF HAWAII STUDENTS WITH DISABILITIES

Issue:

Since SY 2013-14 (and earlier), Hawaii's child count data for 6-21 year-olds with disabilities under Section 618 of the Individuals with Disabilities Education Act has been consistently lower than the national average by 25-30%. Child count is defined as the percentage of all 6-21 year-olds in the state who are served as students with disabilities under IDEA. In SY 17-18 (the latest year for which comparison data is available), Hawaii's served the lowest percentage (6.4%) of 6-21 year-old students with disabilities compared to the resident population than all other 49 states. This disparity deserves greater scrutiny, as we may be significantly underserving students who could be eligible for and benefit from special education and related services.

Recommendation:

Work with SEAC and OSEP technical assistance providers to determine why Hawaii consistently identifies fewer children with disabilities and whether steps are needed to expand outreach efforts and/or eligibility criteria for special education services.

Recommendations to the Superintendent (cont.)

LEADING BY CONVENING SHARED WORK PRODUCTS

Issue:

SEAC has fully committed to creating shared work products with the Department in the form of infographics on current initiatives and topics to reach and inform a wider audience of special education stakeholders. Joanne Cashman facilitated an opportunity for SEAC to share its process and infographics with other State Advisory Panels and Interagency Coordinating Children's Councils via an OSEP sponsored webinar in May 2019. As each new infographic is developed and vetted by SEAC and its DOE partners, its impact on helping to educate and contribute to solutions for complex issues relating to the education of students with disabilities is dependent on successful outreach and a meaningful feedback loop in order to refine improvement activities further.

Recommendation:

Partner with SEAC to identify future infographic topics and dissemination pathways to distribute to as wide an audience as possible in order to provide easy access to information that engages special education stakeholders and generates synergistic problem-solving.

PROFESSIONAL DEVELOPMENT UTILIZING INTEGRATED TEAMS

Issue:

The Department has committed to designing fundamental professional development to prepare all stakeholders to support a shared vision of inclusive education. This vision must include the student's and his or her family's perspective and insights in order to be truly meaningful. Professional development efforts--especially around the topics of inclusive education and family engagement--will have a greater impact, if they include the student and parent voice, either as co-presenters or receivers of information in inclusive professional development activities.

Recommendation:

Utilize parents and student leaders as appropriate on professional development teams to model the home-school partnership that enhances the academic success of students with disabilities. Open up training to a broad range of stakeholders so that they may hear the same message and commit to the same goals for improving student outcomes.



Major Activities of School Year 18-19

Leading by Convening

SEAC celebrated its third year of building relationships and finding solutions to difficult and complex problems through a process called Leading by Convening (LbC). It involves:

- ★ coming together around shared concerns or problems of practice that need fixing;
- ★ working to get the right mix of stakeholders to commit to preparing to move forward; &
- ★ practicing shared leadership and modeling respect for one another's experience and expertise.



Shared dialogue and problem solving with DOE leadership included discussions with Deputy Superintendent **Phyllis Unebasami** (the 10 Year Strategic Plan), Assistant Superintendent **Heidi Armstong** (following up on the recommendations of the Special Education Task Force Report), and Assistant Superintendent **Amy Kunz** (the Department's biennium budget and repurposing of salary savings). **Joanne Cashman** and **Cesar D'Agord** from the National Center for Systemic Improvement continued their technical assistance to SEAC on using infographics as a tool for creating shared products with the Department of Education (see Infographic Work Groups) and helped members improve their understanding of data ethics and implementation science. SEAC also benefited significantly from its partnership with **Dr. Christina Tydeman** and **Drew Saranillio** from the Monitoring and Compliance Office in planning meetings and facilitating discussions to grow member expertise. (For more information about LbC, go to: <http://seac-hawaii.org/leading-by-convening/>).

Infographic Work Groups

The purpose of creating infographics is to take complex information and express it simply, so that others gain enough understanding to enter a conversation on the issue. Four work groups that formed at the end of SY 17-18 continued to refine infographics around the following topics: 1) explaining inclusive education in the framework of Nā Hopena A'o (HĀ) , 2) providing information and data on significant disproportionality, 3) providing evidence-based practices and parent tips related to the State Systemic Improvement Plan goal of boosting reading achievement in 3rd and 4th graders with disabilities, and 4) providing clear steps for parents and school personnel to set up protocols for the delivery of medical services in the school setting. Time was set aside during most meetings for the work to evolve. By the end of the year, members had refined a vetting process for approving work group products and a template for Dialogue Guides to share the infographic with other stakeholder groups. (For more information on SEAC's infographics, go to: <http://seac-hawaii.org/infographics/>).



Major Activities of School Year 18-19 (cont.)

OSEP Webinar for State Advisory Panels and Interagency Coordinating Councils

Joanne Cashman invited SEAC to share its experiences with Leading by Convening, including creating infographics as shared work products, with other state advisory panels under Part B and C of the Individuals with Disabilities Education Act. The May 2nd webinar included opportunities for questions to be answered and on-line polling to gauge how likely the listeners were to 1) adopt Leading by Convening practices and 2) utilize infographics to share important information with others. (For more information about the webinar, go to: <https://collab.osepideasthatwork.org/SAP-SICC>).



Annual Performance Plan (APR)/State Systemic Improvement Plan (SSIP) Review

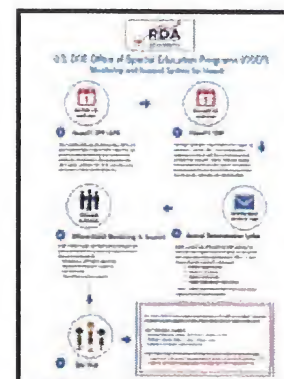
The Annual Performance Plan (APR), including the State Systemic Improvement Plan (SSIP), is the main monitoring tool of the Office of Special Education Programs (OSEP) for ensuring that states are both 1) complying with the provisions of IDEA, and 2) providing appropriate supports to special education students that result in positive academic and functional performance and growth. SEAC members were briefed on available data for APR indicators, including the SSIP data on reading proficiency for a subset of 3rd and 4th grade students with disabilities, prior to submission of the two reports. Members were also asked to plan proactively for the next 6-year SSIP cycle while awaiting specifics from OSEP.



(To see Hawaii's APR submitted in February, 2019, go to <http://www.hawaiipublicschools.org/VisionForSuccess/SchoolDataAndReports/StateReports/Pages/Special-Education-Performance-Report.aspx>. Hawaii's Phase 2 SSIP is available for review at <http://www.hawaiipublicschools.org/DOE%20Forms/Special%20Education/SSIPPhase3Y3.pdf>.)

OSEP Differentiated Monitoring and Support Team

In response to Hawaii's submissions of the APR and SSIP for the last several years, Hawaii was selected for intensive technical support from the Office of Special Education Program's Differentiated Monitoring and Support (SMS) Team. The January 2019 visit was based on Hawaii's poor reading and math achievement scores for 4th and 8th graders with IEPs and on issues related to the State Systemic Improvement Plan. DMS Team members **Jennifer Barrett-Zitkus**, **Angela Tanner Dean** and **Christine Pilgrim** attended SEAC's January meeting and responded to questions submitted in advance of the meeting. They shared a number of important resources and supports and encouraged SEAC to submit testimony when new Annual Performance Report requirements are proposed. (For a copy of SEAC's infographic on OSEP's monitoring and support system, go to <http://seac-hawaii.org/infographics/>).



Major Activities of School Year 18-19 (cont.)

Revisions to Chapter 19 and Chapter 41 (renamed Chapter 89)

As part of an agreement with the U.S. DOE's Office for Civil Rights after complaints of student bullying and harassment--both by other students and by adults at school--the Department of Education added grievance procedures and new definitions to Chapter 19 and Chapter 41 (renamed Chapter 89). SEAC submitted a series of testimonies resulting in the following changes to the draft documents:

- ★ revising the parent definitions to acknowledge parents of adult special education students who are acting as their child's educational representative or Power of Attorney agent;
- ★ adding these parents as parties who can file complaints;
- ★ requiring principals to ensure that complaints involving students with disabilities do not affect their free appropriate public education (FAPE); and
- ★ adding a time frame to actions required *as soon as possible*--"but no later than 72 hours."

A public hearing on the final language for Chapters 19 and 89 will be held on July 16th.

(To see a copy of the hearing notice, go to: <http://boe.hawaii.gov/Documents/Public%20Hearing%20Docs/Ch%2019,%2041,%2089%20Notice%20of%20Public%20Hearing.pdf>).

Public Outreach

SEAC reaches out to the public and interested applicants by 1) hosting an informational booth at the annual SPIN Conference to provide information about SEAC to the 500 parents and helping professionals who attend each year, 2) widely disseminating SEAC rack cards and brochures throughout the year, 3) inviting public participation at monthly meetings where at least fifteen minutes are set aside in each meeting agenda to allow for public input, 4) and soliciting input through a "Share Your Ideas" page on the SEAC website.



Legislative Testimonies

In addition to supporting the Department of Education's budget priorities as they impact students with disabilities, the Legislative Committee monitors related legislation and provides testimony where appropriate. One area that SEAC sought to influence this legislative session was adding an exemption to the applied behavior analyst licensing law for special education teachers who have received the training and practicum experience to design and implement behavior plans for their students. Unfortunately this legislation did not pass, like other bills SEAC supported--offering teacher housing options, prohibiting the suspension of a preschool student in a public preschool, and creating positions for ABA personnel within the Department of Education. On a positive note, legislation requiring movie theaters to provide open movie captioning during at least two showings per week of any movie offered with open captioning did become law on June 26, 2019. (To see SEAC testimonies for SY 18-19 and earlier, go to <http://www.seac-hawaii.org/testimony>).



Major Activities of School Year 18-19 (cont.)

SPED Fiscal Allocation Work Group

SEAC's chair served on this work group formed in response to last year's Special Education Task Force Report recommendation to develop an equitable, transparent system for allocating special education personnel. The newly proposed allocation formula would create base funding of \$100,000 for each school (roughly one special education teacher and one EA) with 95% of the remaining funding being distributed based on head count and the other 5% going to the Complex Area Superintendent for discretionary funding of additional staffing as needed. The Work Group recommendations have been submitted to the Superintendent and Committee on Weights for further deliberation.

SEAC Book Drive

Yet another activity influenced by the shared work on infographics was a book drive spearheaded by the SSIP/Reading Work Group. Members were asked to donate Dr. Seuss books to facilitate the goal of having parents spend more time at home helping their young children with disabilities learn to read. The book collection was presented to Pu'u hale School principal **Arnie Kikkawa** during the May SEAC meeting.



Tentative Meeting Schedule for SY 19-20

All meetings will be held in the Puuhale School Library Meeting Room (with the exception of April) at 345 Puuhale Road in Honolulu. Hours are 9:00 a.m. to noon. The tentative schedule is as follows:

August 9, 2019

September 13, 2019

October 11, 2019

November 8, 2019

December 13, 2019

January 10, 2020

February 14, 2020

March 13, 2020

April 24, 2020 (2nd Floor Art Room)

May 22, 2020

Meetings are open to the public and each meeting agenda includes time for input from the public. Individuals may present their input in writing by mail, fax or email or by speaking to members at the meetings. (Agendas, meeting schedules, minutes and other SEAC reports can be found online at <http://seac-hawaii.org>).



SEAC Member Roster SY 18 - 19

Ms. Martha M. Guinan, Chair	Individual with a Disability
Ms. Dale Matsuura, Co-Vice Chair (Staff Success)	Teacher, Honolulu District
Dr. Patricia Sheehey, Co-Vice Chair (Student Success)	University of Hawaii Representative
Ms. Ivalee Sinclair, Co-Vice Chair (Legislation)	Individual with a Disability
Ms. Brendelyn Ancheta	Parent - Kauai District
Ms. Virginia Beringer	Parent - Windward District
Ms. Deborah Cheeseman	Special Education Teacher
Ms. Annette Cooper	Parent - Central District
Mr. Motu Finau	Division of Vocational Rehabilitation, DHS
Mr. Sage Goto	Developmental Disabilities Division, DOH
Ms. Lindsay Heller	Parent - Hawaii District, Charter School Representative
Dr. Kurt Humphrey (alt: Dr. Scott Hashimoto)	Child & Adolescent Mental Health Division, DOH
Ms. Cathy Kahooahanohano	Representative of Students Who Are Homeless, DOE
Ms. Tina King	Military Family Representative
Ms. Bernadette Lane	Child Welfare Branch, DHS
Ms. Kaili Murbach	Parent - Maui District
Ms. Stacey Oshio (alt: Ms. Lisa Vegas)	Youth Corrections/Principal - Olomana School
Ms. Carrie Pisciotto	Early Intervention Section, DOH
Ms. Kau'i Rezentes	Parent - Leeward District
Ms. Rosie Rowe	Parent Training and Information Center
Mr. James Street	Private Schools Representative
Mr. Francis Taele	Adult Corrections/Department of Public Safety
Mr. Steven Vannatta	Community Childrens Council Representative
Dr. Amy Wiech	Parent - Central District
Ms. Jasmine Williams	Parent - Honolulu District
Ms. Susan Wood	Community Representative
Mr. Drew Saranillio and Dr. Christina Tydeman	Liaisons to the Superintendent
Dr. Robert Campbell	Liaison to the Military
Ms. Amanda Kaahanui	Staff
Ms. Susan Rocco	Staff

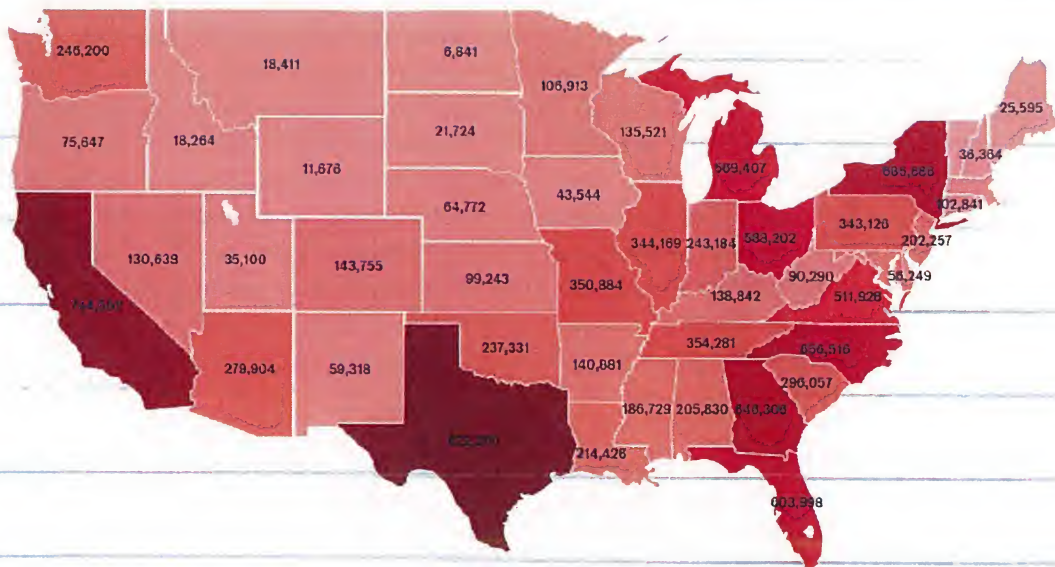


11 MILLION DAYS LOST

RACE, DISCIPLINE, AND SAFETY AT U.S. PUBLIC SCHOOLS

PART 1

A JOINT REPORT BY THE CENTER FOR CIVIL RIGHTS REMEDIES OF UCLA'S CIVIL RIGHTS PROJECT
AND THE AMERICAN CIVIL LIBERTIES UNION OF SOUTHERN CALIFORNIA



BY DANIEL J. LOSEN and AMIR WHITAKER



The Center for Civil Rights Remedies
at The Civil Rights Project | *Proyecto Derechos Civiles*

ACLU

INTRODUCTION

We issue this report amid rising concerns that the resources needed for school personnel in order to improve school climate are inadequate.

This descriptive summary of new state and national level data demonstrates the disparate impact of harsh discipline on educational opportunity, as well as raises several concerns including the adequacy of resources used for school personnel that can improve school climate and possible misunderstandings of school safety issues. Specifically, this snapshot highlights new data showing the days of lost instruction resulting from the use of suspension. Unlike all prior reports, these data are not estimates but based on the actual reports from nearly every public school in the nation. It provides vital information to parents, students, educators, advocates, researchers, policy makers and others interested in the impact of discipline disparities on educational equity and opportunity.¹

We issue this report amid rising concerns that the resources needed for school personnel, who are essential to in improving school climate, are inadequate. In addition, possible misunderstandings of school safety issues may prompt the federal government to rescind important guidance for public school administrators on how to identify and remedy unjust discipline policies. If educators and policymakers overlook the harmful and disparate educational impact of harsh discipline they will likely make counter-productive decisions on how to spend scarce education dollars that will exacerbate the inequity in opportunity described in this report.

This report is the first of two data snapshots of the school-to-prison pipeline in America. It starts with inequitable access to instruction due to disparities in discipline. The second report will explore data on support staff, and serious offenses reported in school, along with disaggregated data on school-based arrests and referrals to law enforcement across all major racial subgroups. Those findings will be previewed in the discussion section of this report. In this

Unfortunately, deeply disturbing incidents of school gun-violence have spurred policymakers to consider adding more police to schools.

first report, readers will see how out-of-school suspensions disproportionately impact instruction for children of color and students with disabilities in each state. The subsequent report will enable readers to compare how states dedicate resources toward police and school resources officers versus how they support counselors, for teachers, special educators, and mental and physical health personnel.

Unfortunately, deeply disturbing incidents of school gun-violence have spurred policymakers to consider adding more police to schools and some have gone as far as to suggest that safety problems were made worse by federal civil rights guidance that prompts schools to “rethink” discipline policies that may contribute to unjustifiable discipline disparities. The suggestion that the federal guidance on school discipline and civil rights be rescinded has been met with strong opposition from a diverse group of stakeholders and policymakers including Council of Great City Schools, organizations representing leading charter school organizations, schools administrators², and teachers’ unions. Most recently a letter supporting the guidance from 11 state attorneys general who point out the “lack of any credible evidence connecting these policies to the school shootings that lead to the creation of the Commission.”³

Meanwhile, the idea that missing days of instruction impacts academic performance is a logical one, even if it remains difficult to quantify in precise terms.⁴ One study on chronic absenteeism, for example, found that missing three or more days of instruction before taking the national assessment of reading in grade 4 lowered scores, on average by a full grade level, even after controlling for other variables.⁵ Several studies, including our own recent research report conducted by Dr. Russell Rumberger compared cohorts of similar students and concluded that after controlling for other reasons that students do not graduate on time, suspension alone contributes to an estimated 7 point lower graduation rate.⁶ Moreover, based on economic studies of costs associated with dropping out, our research demonstrated that there are serious negative economic costs implicated by the increased dropout risks that could be attributed to suspension.⁷ Among the strongest findings on the harm from suspension come from a 2018 study published in the peer-reviewed journal *Youth & Society* which concluded that after 12 years had passed, students who were suspended were less likely to have graduated from high school or college and more likely to have been arrested or on probation.⁸ The study controlled for 60 variables including socio-economic status and delinquency to compare suspended students to their otherwise similar peers, ruling out most other factors that might have explained the differences. These studies and many more contributed to the recent conclusion of the non-partisan Government Accountability Office report issued in March 2008 that students who are suspended from school “lose important instructional time, are less likely to graduate on time, and more likely to repeat a grade, drop out of school, and become involved in the juvenile justice system.”⁹

Given this strong research base, the differences in lost instruction from

out-of-school suspension suggest a profoundly disparate educational impact. Although the national data implicate deeply disturbing differences, we believe readers will be shocked to see the depth of the divide in the most disparate states. The report concludes with research-based recommendations for addressing these disparities.

All the data provided in this report were collected from the 2015-16 academic year by the U.S. Department of Education's Office for Civil Rights. This is also known as the Civil Rights Data Collection (CRDC). The data are from over 96,000 schools, and include nearly every public school in the United States. This report is called a snapshot because it is purely descriptive and covers only one of several school discipline metrics collected by the CRDC.¹⁰ Nor does this report produce any new findings about causal relationships between lost instruction and negative academic outcomes. The relationship between missing school and negative outcomes, generally, is well established and obvious to most.¹¹ Instead, the purpose of this report is to raise awareness about the new data and about profound differences in lost instruction from discipline. It is the first report of its kind covering all the major racial/ethnic groups, as well as students with disabilities, and the first to highlight disparities in lost instruction for every state as well as at the national level. An additional **data dashboard and maps webpage** has been published by the ACLU to enhance the visual representation of the data at the county level as well. We hope to publish a comprehensive report regarding these issues, including district level analyses, in the coming year.

DRAMATIC DIFFERENCES IN DAYS OF LOST INSTRUCTION

School discipline disparities contribute to learning opportunity disparities, and one study suggests that school suspensions account for approximately one-fifth of Black-White racial differences in school performance.⁹ The data collection year 2015-16 was the first time every school was required to collect and report data on the days of lost instruction due to out-of-school suspensions. However, when the U.S. Department of Education provided a summary of the latest release of the CRDC results in April, 2018 they failed to mention this new data element. In the past, the Department's Office of Civil Rights would point out new data elements, and the concerns they raised about educational inequality. The Trump administration's failure to even mention these new data raises concern that they will not pay attention to the serious civil rights issues raised by racially disparate discipline.

NATIONAL DISPARITIES IN DAYS OF LOST INSTRUCTION

The data are disturbing on many levels. Nationally, school children lost over 11 million days of instruction (11,360,004) as a result of out-of-school suspension. That's roughly 66 million hours of missed instruction or more than 63,000 school years of lost learning. As this report demonstrates, the time lost was not distributed evenly.

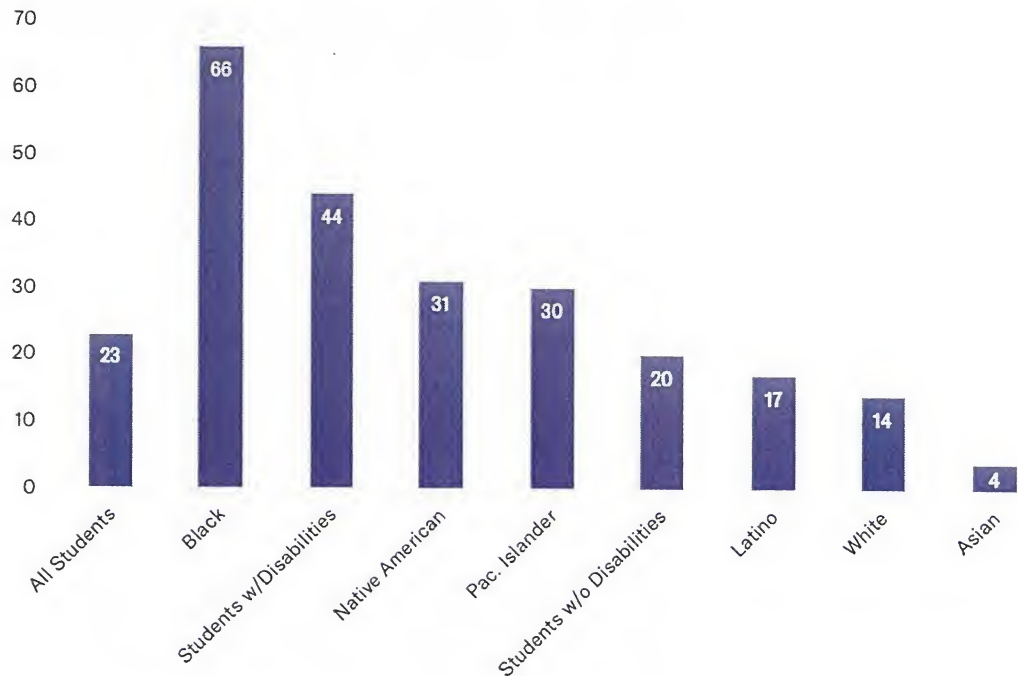


Chart A: Days of Lost Instruction per 100 Students by Race and Disability in 2015-16

The state and national level data presented in this snapshot are built up from the school level data. In order to enable comparisons despite enrollment differences for each subgroup, the number of days lost are divided by enrollment and multiplied by 100 to provide the days lost per 100 students enrolled. Nationally, students lost instruction at a rate of 23 days lost per 100 enrolled. The same calculation was used to give a clear sense of the impact on instruction experienced by each group.

The graph shows that, nationally, Black students lost 66 days of instruction compared to just 14 days for White students. This difference of 52 more days lost for Blacks than Whites means that Blacks lost nearly 5 times the amount of instruction as Whites and nearly 17 times the amount lost by Asian American students who at 4 days per 100, lost the lowest amount of instruction of any of the racial/ethnic groups.

Similarly profound disparities are observed between students with and without disabilities. The former lost 44 days of instruction, which was more than double the loss experienced by their non-disabled peers (20 days per 100). The state tables show just how large the differences in lost instruction are among groups nationally, and within each state. Readers can compare their state to others, or to the national average. The ten states with the highest rates and largest disparities are highlighted.

LARGE AMOUNTS OF LOST INSTRUCTION AND PROFOUND STATE DISPARITIES RESULT FROM DISPARITIES IN HOW SCHOOLS SUSPEND STUDENTS OUT-OF-SCHOOL

Some of the most notable findings from the state analyses include the following:

Black girls lost 1.7 million days of instruction or 45 days for every 100 enrolled. This is nearly twice the national average for all students.

- North Carolina happened to have the highest rate for all students (not counting DC) with an average of 51 days lost per 100 students. The impact, however, was not felt equally.
- Native American students in North Carolina lost 77 days per 100 enrolled.
- Latino students lost the most instruction in New Hampshire's schools at 55 days of instruction per 100 enrolled. There were roughly 9,800 Latino students enrolled and they lost over 5,300 days of education due to suspension. In 3 more states, Oklahoma, Michigan, and Ohio, Latinos lost 34 days of instruction, which was two or more times their national average (17 days).
- Both Hawaiian/Pacific Islanders and Asian American students experienced the most lost instruction in Hawaii where they lost 75 and 24 days per 100 respectively. Hawaii was also the worst state for Students with Disabilities who lost 95 days per 100 enrolled, 53 more days lost per 100 than students without disabilities at 42.

In far too many states, the loss of instruction experienced by Black students, dwarfed even the worst state-level losses in instruction experienced by these other subgroups.¹³

- In Missouri, Black students lost 122 days of instruction per 100 enrolled. There were roughly 145,000 Black students enrolled and they lost a total of over 177,000 days of instruction in the state.
- Black students lost over 100 days per 100 enrolled in each of the 5 worst states for Black students: Ohio; Michigan; Mississippi; Tennessee; and Virginia.
- In each of these five states Black students lost between 47 and 100 more days than White students.
- Tennessee and Virginia were also among the 5 worst states for students with disabilities. While this snapshot does not cover the confluence of race and gender it is worth noting that while there are only 3.9 million Black boys enrolled in school, together they lost more than 3.4 million days of instruction due to suspension. That means that nationally, Black boys lost 86 days for every 100 enrolled.
- Black girls lost 1.7 million days of instruction or 45 days for every 100 enrolled. This is nearly twice the national average for all students.

TABLE 1 on the following page provides the data for each of the major racial/ethnic subgroups for each state. Readers can sort the data dashboard or spreadsheet that comes with this snapshot to see the state ranking of each state for each of the subgroups. The table lists states in alphabetical order. The states (and DC) highlighted in red were among the worst 10 for that particular subgroup.

TABLE 2 simply describes the disparities between the rates provided in Table 1. For example, the national Black-White gap of 53 days is found by subtracting the days lost by Whites per 100 from those lost by Blacks.

Many readers who are familiar with the way discipline data are reported to the public may not be accustomed to the reporting of days of lost instruction due to out-of-school suspensions. It is also worth noting that these numbers are *not* estimates, but actual reports on days of lost instruction.¹⁴ The U.S. Department of Education required reporting of days lost for the first time in this data set to give educators and civil rights advocates a clearer idea of the impact of suspensions on instruction. The reporting of lost instruction also helps cure one of the limits with comparing suspension rates which are based on unduplicated counts of students, and found in all prior Office of Civil Rights reports of suspension. Comparing rates of students suspended does not adequately reflect possible differences (by subgroup) in suspension length or the impact from more frequent and repeated use of suspensions, which we know from our prior research is experienced by students with disabilities more than their non-disabled peers.¹⁵

TABLE 1 DAYS OF LOST INSTRUCTION BY STATE, RACE, AND DISABILITY STATUS PER 100 STUDENTS IN 2015-16

DAYS LOST PER 100 STUDENTS										
	Total Days Lost	All Students	Black Students	Native American Students	Pacific Islander Students	Latino Students	White Students	Asian Students	Students with Disabilities	Students without Disabilities
NATION	11,360,004	23	66	31	30	17	14	4	44	20
AK	32,065	24	60	34	48	24	18	5	48	21
AL	205,830	28	59	15	11	8	13	5	30	27
AR	140,881	29	82	21	14	16	16	4	42	28
AZ	279,904	25	62	42	16	27	18	6	39	23
CA	744,502	12	39	24	12	12	10	3	26	10
CO	143,755	16	38	21	13	20	12	4	37	14
CT	102,841	19	56	19	6	32	7	3	44	16
DC	41,759	51	69	19	20	14	2	3	112	42
DE	56,249	41	88	25	8	28	18	4	78	34
FL	603,998	22	45	19	10	14	16	3	35	20
GA	646,306	37	72	18	27	21	15	5	54	35
HI	75,241	41	34	42	75	31	28	24	95	35
IA	43,544	9	35	6	10	10	6	2	23	7
ID	18,264	6	10	20	6	7	6	1	13	6
IL	344,169	17	51	13	10	12	9	2	32	15
IN	243,184	24	74	16	5	20	15	5	46	20
KS	99,243	20	91	23	7	23	12	7	38	18
KY	138,842	20	67	16	8	14	15	4	24	20
LA	214,426	30	49	22	9	16	15	5	43	28
MA	118,366	13	31	12	4	24	8	2	25	10
MD	164,796	18	36	13	7	11	9	2	40	16
ME	25,595	14	34	22	4	15	14	4	36	10
MI	569,407	38	110	34	15	35	20	6	67	34
MN	106,913	12	48	40	3	16	6	3	33	9
MO	350,884	38	122	36	16	24	22	8	73	33
MS	186,729	38	62	22	8	13	15	5	53	36
MT	18,411	12	21	44	5	13	8	2	26	11
NC	656,516	42	95	77	27	28	21	5	85	37
ND	6,841	6	12	29	4	5	3	2	13	5
NE	64,772	21	98	35	14	22	12	5	49	16
NH	36,364	20	59	33	13	55	17	5	46	15
NJ	202,257	15	43	10	4	19	6	2	30	12
NM	59,318	18	38	23	5	18	13	4	28	16
NV	130,638	28	82	27	24	25	18	8	49	26
NY	686,686	25	65	28	2	22	16	5	53	20
OH	588,202	34	111	19	7	34	17	6	63	29
OK	237,331	34	93	31	41	35	27	8	57	30
OR	75,647	13	27	26	14	15	12	3	28	11
PA	343,126	20	63	15	7	31	10	4	37	17
RI	23,345	17	32	42	6	25	11	5	29	14
SC	296,057	39	72	38	16	20	21	5	65	35
SD	21,724	16	54	45	9	20	10	5	38	13
TN	354,281	36	105	27	10	19	15	6	85	28
TX	822,360	16	44	10	7	15	7	2	32	14
UT	35,100	5	20	9	7	10	4	4	12	4
VA	511,926	40	102	26	12	22	23	3	78	35
VT	7,722	9	22	23	2	5	9	4	23	7
WA	246,200	23	64	47	34	27	18	7	57	18
WI	135,521	16	86	20	4	17	7	3	47	11
WV	90,290	32	91	10	16	23	30	9	55	28
WY	11,676	12	26	31	6	17	10	6	27	10

TABLE 2 STATE AND NATIONAL GAPS IN LOST INSTRUCTION PER 100 STUDENTS IN 2015-16*

STATE	SWD-SWoD Days Lost Gap per 100	Black-White Days Lost Gap per 100	Latino-White Days Lost Gap per 100	Native American -White Days Lost Gap per 100
NATION	24	53	4	17
AK	28	42	6	16
AL	3	46	-5	2
AR	14	66	0	5
AZ	16	44	9	24
CA	16	29	1	14
CO	23	26	8	9
CT	29	48	25	11
DC	71	67	12	16
DE	44	71	10	7
FL	15	29	-2	2
GA	19	56	6	3
HI	60	5	2	13
IA	17	29	4	0
ID	8	4	1	14
IL	17	42	3	4
IN	26	59	5	1
KS	20	80	11	11
KY	4	53	-1	1
LA	15	34	2	7
MA	16	24	16	4
MD	24	28	2	5
ME	26	20	1	8
MI	33	90	15	14
MN	24	42	9	34
MO	40	100	2	14
MS	17	47	-2	7
MT	16	14	5	38
NC	48	74	7	56
ND	8	9	2	28
NE	33	85	10	23
NH	31	41	37	15
NJ	18	36	13	4
NM	12	25	5	10
NV	23	64	7	9
NY	33	50	6	13
OH	33	94	17	2
OK	27	66	8	4
OR	17	14	3	14
PA	20	53	22	5
RI	15	21	14	31
SC	30	51	-1	16
SD	25	44	10	35
TN	56	90	4	12
TX	18	37	8	3
UT	7	16	7	5
VA	44	78	-2	2
VT	16	13	-4	14
WA	39	45	8	28
WI	36	79	10	13
WV	26	62	-7	-20
WY	16	16	6	21

SWD = Students with disabilities
SWoD = Students without disabilities

*Some of the gaps in this table do not perfectly match the data reported in Table 1 due to distortions from rounding.

DISCUSSION

It is important to consider these data disparities in light of calls for more police in schools. We hope readers will consider these data on lost instruction, and our preview of personnel shortages in light of other research findings suggesting that school police and strict security measures are positively associated with increased suspension rates and disparities.¹⁶ Further, as highlighted by Education Week's Research Center's recent survey of school resource officers, they see their primary responsibility to be "enforcing laws," and 93% carried a gun and 97% carried handcuffs.¹⁷ Most would agree that given their purpose, tools and training, if we add more police to our schools it's logical to expect that more students would be arrested for school-based behavior.

A wide spectrum of policy-makers and children's advocates, including many conservatives, have expressed concerns with how adding more police to schools will impact educational outcomes and endanger the civil rights of children, by criminalizing a wide range of adolescent behaviors. For example, Brian Saady writing for the American Conservative recently asked, "Why is behavior that used to be disciplined within the school system now being outsourced to the police? There are a number of factors, but the most notable is the increase in the number of police officers stationed on school campuses, i.e. school resource officers (SRO)."¹⁸ Thus, adding police in the interest of safety from outside threats, would make students less safe.

In addition to the questionable wisdom of adding police patrols to our children's school hallways, investing in policing when resources are scarce, also means less money for counselors, teachers, and other student support personnel. At one recent federal commission on school safety session, the Chair of the Arkansas Board of Education pointed out that there was a serious teacher and school counselor shortage in many Arkansas districts, yet counselors were critically important to preventing violence and keeping students safe.¹⁹

In the report that follows this one we will cover the data on school personnel that will enable readers to see which states are under-resourced in terms of counselors and mental health personnel. The 2015-16 dataset was the first time every public school was required to report staffing information regarding the number of full time equivalent social workers, nurses, counselors, and psychologists. Although our analyses are not complete, it is safe to say that most schools, districts, and states are severely below student-to-staff ratios recommended by professional and expert organizations. For example, over 36 million students were enrolled in 55,000 schools that did not meet the American School Counselors Association's recommended ratio of 250-to-1 student-to-counselors.²⁰ Nationally, there was a student-to-counselor ratio of 444-to-1, suggesting that counselors are seriously overworked with a student caseload that is 78% greater than what is recommended by professionals.

In our next reports we will also examine the profound differences in school-based arrests and referrals to law enforcement. We know from the data that nationally, among racial groups, Black students have the highest risk for being arrested at school as well as for being referred to law enforcement. Unfortunately, there are serious issues with inaccurate and underreporting of school arrests and law enforcement referrals. For example, both New York City and Los Angeles reported zero school-based arrests. In prior

years, many districts that reported zero arrests confirmed that they did not keep track of those data despite the federal requirement to report the data to the U.S. Department of Education. Technically, this means that there is likely a good deal of non-compliance with a federal requirement. We believe the under-reporting is especially challenging to our understanding of what is really happening to Black students and children with disabilities. Moreover, it is deeply disturbing to witness the current administration's call for more police in schools when the potential negative impact of police presence remains hidden by grossly inaccurate reporting.

The serious concerns about adding police to schools and inaccurate data about the use of police by schools has been raised by civil rights advocates under prior administrations, but is more acute now given the parallel deep reduction in the budget for federal education civil rights enforcement and clear indications (such as the pardoning of Sheriff Arpaio) that inappropriate racial profiling by police, generally, is not considered a legitimate concern by this administration. Further, as referenced in the introduction, research findings we have published previously suggests that investing in police and other security measures is correlated with higher and more disparate rates of out-of school suspensions.²¹ Although this cited study bundled SROs and police with other security measures, further research focused on policing alone may find that the well-intended and racially neutral addition of police to school campuses despite the laudable goal of protecting children against violence may fail to fulfill that purpose. If other resources, such as investing in counselors, teachers, social workers or other health personnel prove to be far more effective in preventing shootings as well as other violence, adding police instead of addressing shortages in these other personnel areas may have the kind of unjustifiable disparate impact on the educational and life outcomes of children of color that the federal discipline guidance warns against.

Although this first report and the recommendations that follow focus on the disparities in lost instruction, we believe that this overarching federal context describes urgent circumstances. Fortunately, states and districts and schools can decide to actions like those recommended in the federal rethink school discipline guidance package now, or even after the federal guidance is rescinded. There is a great deal more that educators can do, on their own initiative.

RECOMMENDATIONS

- Policymakers at all levels should give greater consideration to the profound inequities in days of lost instruction due to out of school suspensions when reviewing discipline policy.
- Educators should review disaggregated data for their school on lost instruction due to discipline at least annually.
- Schools and districts should annually report disaggregated discipline data, including days of lost instruction, to parents and members of the greater community.
- State-level administrators should carefully review resource inequities when making budget decisions regarding allocations intended to improve school climate and security.
- Parents, educators, advocates, and member of the media should demand that more accurate data are collected and annually reported to the public, that include data on referrals to police, and school based arrests.
- States should pursue reforms through legislation to include discipline disparities as part of the ESSA indicators, similar to the requirements that have been put in place by the state of

California.

- States should adopt OCR's 2014 guidance on school discipline as their own.
- Policymakers should avoid spending additional dollars on police in states and districts that already have inadequate resources for teachers, counselors, and personnel that provide mental health supports and services.
- The federal government must take stronger steps to ensure that all the CRDC reporting requirements are met, especially data regarding the school-based arrests or referral to law enforcement.
- Whenever possible, members of the media should request and report the data on days of lost instruction when covering stories about school discipline reform or questions of equitable educational opportunity.
- Parents and local advocates should request data on lost instruction and bring their concerns about excessive and disparate discipline to the attention of both administrators and state and local education boards.
- Where they have the capacity, advocates should request that their local district provide them with the Civil Rights Data Collection (CRDC) disaggregated discipline data for the 2017-18 academic year, including but not limited to data on days of lost instruction.

Appendix A: Details on Methods and Data Cleaning

Data Omissions

Although there are over 50 million students enrolled in U.S. schools, this analysis excluded schools enrolling hundreds of thousands of students to improve precision. Our analysis included 49,977,268 students total.

Students identified as having disabilities under “Section 504” only: This report excluded these students because the Civil Rights Data Collection did not collect data on their days lost and arrest/referral disaggregated by race. Their omission did not have an impact on what is reported for students with disabilities identified under the IDEA. However, schools with less than 8 students with are not publicly reported in enrollment because of data suppression. However, many of these schools still publicly reported arrests for the students.

Students in juvenile justice facilities: We excluded 608 schools from the analysis composed solely of students in juvenile justice facilities. These schools enrolled over 30,000 students. Although this information is valuable, these educational settings vary significantly from traditional schools and deserved separate treatment. Most of the schools did not report days lost to suspensions, and no arrests were reported since the students have already been arrested and adjudicated.

Students in virtual schools: For similar reasons we removed “virtual” schools and districts. When most students are attending school from their own home, they are not experiencing school arrests, suspensions, and have varying or no access to counselors and other support staff. These schools enrolled more than 227,000 students and were identified by words like “virtual” “cyber” “online” “connections academy” and “Electronic Classroom of Tomorrow” in the school name.

Students in Pre-K settings: This analysis removed over 1,600 pre-K schools that enroll over 258,000 students to focus on K-12. However, it is worth noting there were roughly 208 counselors and 65 law enforcement officers at these pre-K schools.

Data source: The data used in this report, which covers the 2015-16 school year, comes from the Civil Rights Data Collection (CRDC), a survey administered by the U.S. Department of Education’s Office for Civil Rights (OCR). The data are sometimes referred to as the “OCR” data and sometimes as the “CRDC”. The two are identical. These data were made available to the public in April 2018. The data and more details about the data collection can be found online at <http://ocrdata.ed.gov>. The state and national level data presented in this snapshot are built up from the school level data.

Sample: The OCR gathered data from every public school in the nation.

Calculating Days of Lost Instruction Rates: In order to enable comparisons despite enrollment differences for each subgroup, the number of days lost are divided by enrollment and multiplied by 100 to provide the days lost per 100 students enrolled. The days of lost instruction does not include any of the days lost due to in-school suspensions, expulsions, transfers to disciplinary alternative programs, school-based arrests and referrals to law enforcement.

ENDNOTES

- 1 We believe it is noteworthy that this first time information on lost instruction from out of school suspensions was not even mentioned by the U.S. Department of Education when they released their own snapshot of the recent civil rights data collection they reported to the public several months ago. The reasons for the administration's overlooking these new data are not known and are beyond the scope of this analysis.
- 2 Educators for Excellence, *Letter to Secretary DeVos and Attorney General Sessions* (July 10, 2018).
http://e4e.org/sites/default/files/school_discipline_letter.pdf
 The AFT signed onto the aforementioned letter. NEA support is inferred from their official policy statement on school discipline. See NEA, Policy Statement on the Discipline and The School-to-Prison Pipeline, (July, 2016) retrieved from <https://ra.nea.org/2016/07/06/nea-takes-stand-school-prison-pipeline/> and link retrieved from <https://ra.nea.org/delegate-resources/policy-statement-on-discipline/>
- 3 Re: States' opposition to withdrawal of School Discipline Guidance Package, (August 24, 2018) Undersigned by Attorneys General of California, Connecticut, the District of Columbia, Illinois, Iowa, Maryland, Massachusetts, New Jersey, New York, Oregon, and Washington.
https://ag.nv.gov/sites/default/files/federal_school_discipline_guidance_multistate_ag_letter_v.6_08.24.2018.pdf
- 4 Readers should note that there is one "working paper" that some have cited to refute this assumption, but that has been seriously criticized, in part because it did not attempt to look at the impact of suspension on achievement in the same year the suspension occurred.
 See Brea L. Perry & Daniel J. Losen, NEPC Review: Understanding a Vicious Cycle: Do Out-of-School Suspensions Impact Student Test Scores? National Education Policy Center (June 1, 2017) retrieved from <https://nepc.colorado.edu/thinktank/review-discipline>
- 5 Ginsburg, A., Jordan, P., & Chang, H. (2014). Absences add up: How school attendance influences student success. Retrieved from http://www.attendanceworks.org/wp-content/uploads/2017/05/Absences-Add-Up_September-3rd-2014.pdf
- 6 See, Russell W. Rumberger and Daniel J. Losen, The Hidden Cost of California's Harsh School Discipline, The Civil Rights Project at UCLA, (2017) Retrieved from <http://www.schooldisciplinedata.org/ccrr/docs/CostofSuspensionReportFinal.pdf>
- 7 See: Russell W. Rumberger & Daniel J. Losen, The High Cost of Harsh Discipline and Its Disparate Impact, The Civil Rights Project at UCLA, (2016) Retrieved from http://www.schooldisciplinedata.org/ccrr/docs/UCLA_HighCost_6-2_9+8.pdf
- 8 Janet Rosenbaum (2018). Educational and Criminal Justice Outcomes 12 Years After School Suspension. Youth & Society. Retrieved from <http://dx.doi.org/10.1177%2F0044118X17752208>
- 9 Jacqueline M. Mowicki, *Discipline Disparities for Black Students, Boys and Students with Disabilities*, GAO (March 2018).
<http://www.gao.gov/assets/700/690828.pdf>
- 10 The full CRDC includes several other data points relevant to concerns of inequity in educational opportunity, outcomes and the treatment of students not covered in this snapshot. They include suspensions rates, disciplinary transfers, expulsions, and more. CCRR and the ACLU intended to conduct a more comprehensive analyses of these data points in the course of the next year and a half. For prior reports on school discipline disparities please visit our website: www.schooldisciplinedata.org. Please visit the full CRDC reporting website at oerdata.ed.gov.
- 11 Morris, E. W., & Perry, B. L. (2016). The punishment gap: School suspension and racial disparities in achievement. *Social Problems*, 63(1), 68-86, Retrieved online at <https://academic.oup.com/socpro/article/63/1/68/1844875>
- 12 Morris, E. W., & Perry, B. L. (2016). The punishment gap: School suspension and racial disparities in achievement. *Social Problems*, 63(1), 68-86, Retrieved online at <https://academic.oup.com/socpro/article/63/1/68/1844875>
- 13 A simple comparison of days lost without adjusting for enrollment may give a false impression of equity. For example, in California, the total days lost for White and Black students was nearly the same, but there are nearly 4 times as many White students enrolled. Our metric adjusts for enrollment differences by describing the data in terms of days lost per 100 enrolled.
- 14 Only days lost due to *out-of-school* suspension were reported. Prior reports published by the Center for Civil Rights Remedies were estimates of days lost due to discipline in California, Massachusetts, and for every state for students with disabilities were based on a broader array of disciplinary *removals* which included in-school suspensions, too.
 See, Losen, D. J. & Whitaker, A. (2017). *Lost instruction: The disparate impact of the school discipline gap in California*. The Civil Rights Project/Proyecto Derechos Civiles. Los Angeles, CA. and
 Losen, D. J., Sun, W. L., & Keith, M. A. (2017). *Suspended education in Massachusetts: Using days of lost instruction due to suspension to evaluate our schools*. Los Angeles: Civil Rights Project-Proyecto Derechos Civiles.

Therefore, because this report is based on the actual reported days of lost due to out-of-school suspensions *alone*, it should be considered a more conservative representation of the impact on instruction from disciplinary removal. For this reason, the count of days lost tend to be lower than estimations in those prior reports.

- 15 The CRDC still provides the data on rates of out-of-school and in-school suspension. Rates of out-of-school suspension are calculated by dividing the number of students suspended at least once by their total enrollment. Extensive analysis of these rates at the elementary and secondary level are covered in our prior discipline reports and data webtool along with two state reports (MA and CA) estimating days of lost instruction. Most important, OCR reports data on students receiving just one out-of-school suspension and those receiving two or more. Our analysis of the data in 2009-10 found that those with disabilities had more students in the two or more category than the just once category. This difference was greatest among Black students and Black students with disabilities were the most likely group to be suspended repeatedly. See Losen & Gillespie, (2012) *Opportunities Suspended: The Disparate Impact of Disciplinary Exclusion from School*
- 16 Nance, J.P., (2017) Student Surveillance, Racial Inequalities, and Implicit Racial Bias, *Emory Law Journal* 66 (2017): 765–837;

Finn, J.D., & Servoss, T.J. (2015). Security measures and discipline in American high schools. In D. J. Losen (Ed.), *Closing the school discipline gap: Equitable remedies for excessive exclusion* (pp. 44058). New York: Teachers College Press.
- 17 Editorial Projects in Education, Research Center Report, *School Policing: Results of a National Survey of School Resource Officers, August 2018*.
- 18 In *Throwing Children Away: The School to Prison Pipeline*, the American Conservative writer Brian Saady explores how adding police to schools invariably means involving them in school discipline and an increase in children behind bars.
<https://www.theamericanconservative.com/articles/throwing-children-away-the-school-to-prison-pipeline/>
- 19 See Federal Commission on School Safety Field Visit – Arkansas, August 1, 2018, statement of Dr. Jay Barth, Chair of the Arkansas State Board of Education's statements at including beginning at 1:49:20 and 2:21:30 emphasizing the problem of a shortage of counselors. Retrieved from <https://www.youtube.com/watch?v=CAvkyAYMFSE>
- 20 American School Counselors Association, *Press Release*, access here www.schoolcounselor.org/press
- 21 See Finn & Servoss, *supra* endnote 16.